

Appl. No. 09/759,552
Atty. Docket No. 8394
Amdt. dated July 21, 2009
Reply to Office Action of March 17, 2009
Customer No. 27752

REMARKS

Claim Status

Claims 1 – 7, 10 – 12, 18 and 19 are pending in the present application. Claims 8, 9, and 13 were canceled by the prior amendment, and claims 14 – 17 were withdrawn from consideration. Claims 1, 18 and 19 are amended herein. Support for the amendments to claims 1, 18 and 19 can be found in the claims as originally filed and on page 13, lines 3 – 5 of the present specification and on lines 20-21 of page 7. No additional claims fee is believed to be due.

Rejection Under 35 USC 112, First Paragraph

Claims 1-7, 10-12, 18 and 19 stand rejected under 35 USC 112, first paragraph. The Examiner alleges that the claim limitation “wherein the resistor drains the capacitance of the high voltage power supply in less than about 60 seconds and R is less than or equal to 60/pF” is not sufficiently supported by the present specification. Without addressing the merits of this rejection, by the present amendment, the language objected to by the Examiner has been deleted in claims 1, 18 and 19, and inserted therefore are ranges of resistance values for the claimed resistor. There should be no ambiguity with regard to the inserted language. Accordingly, it is believed that this rejection has been overcome and it should be withdrawn.

Rejection Under 35 USC 103 Over Perkins et al. in view of Gilliland

Claims 1-7, 10-12, 18 and 19 stand rejected under 35 USC 103(a) as being obvious over Perkins et al. (US 5,566,042) in view of Gilliland (US 5,059,766). This rejection is respectfully traversed.

The Office Action admits that Perkins does not teach or suggest the high voltage resistor of the present claims and relies on Gilliland for the deficiency. Gilliland does teach the use of low voltage (100 KΩ to less than 1 KΩ) resistors throughout the specification (see for example part numbers 731, 806, 807, 817, 824, 826, 297 and 922).

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All of these resistors are at least an order of magnitude less than the resistors of claim 1, and 5000 and 10,000 times smaller than the resistors of claims 18 and 19 respectively. The resistor 723 cited by the Examiner is a 1 KΩ resistor, 1000 times smaller than the smallest resistor claimed in the present invention.

In the entire specification only one resistor is described that is greater than 100 KΩ, and that is resistor 841 shown in Figure 4. But resistor is not a bleed resistor it is a “10 MΩ timing resistor”, see line 47 of column 14. Resistors 836 and 840 (6.8 KΩ) are the bleed resistors. A three page description of a Simple Analog Timing Circuit is provided to explain how bleed resistors and timing resistors are different and used to achieve different goals. It is assumed that the Examiner is familiar with these circuits and will appreciate the difference. But it is clear that Gilliland does not teach any bleed resistors for that are anywhere near the ranges of claims 1, 18 and 19.

Moreover, all of the present claims have been amended to reflect that the claimed device will be used to apply particles to the human skin of the user. Gilliland is directed to a welding torch. Applicants need not go into the certainly disastrous, and likely fatal, results if a welding torch is used on human skin. Accordingly, those skilled in the art of applying make-up and foundation to the human skin would never consider the teachings of a welding torch.

And finally, the Examiner’s attention is drawn to Column 5, line 54 through Column 6, line 8, where the purpose of the bleed resistor of Gilliland is described. Essentially a capacitor is placed in the welding torches’ circuitry to store a charge. As the welding progresses pieces of dirt and metal may accumulate on the welding rod. To dislodge this debris, the capacitor is discharged sending one large, uncontrolled burst of energy to the tip in an attempt to explode the debris from the rod. “Bleeder resistor 723, provides for safety purposes, an alternate discharge path for capacitor 722.” Gilliland, Column 6, lines 6-8. Thus, the capacitor discharge is intentionally violent, large and uncontrolled. The discharge is so uncontrolled that a safety valve is necessary in the form of a bleed resistor. In sharp contrast, the bleed resistor of the present invention is used to control the spray. The entirety of the present specification is drafted to explain the need for a constant, controlled spray of particles, especially when the device is starting up and turning off. The bleed resistors are used to achieve this constant output while the charge to the device is variable. Thus, the resistors in Gilliland are used for the exact opposite purpose as those used in the present invention.

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Even under the guidelines of the Supreme Courts *KSR* decision, the present claims are not obvious over the combination of Perkins et al. in view of Gilliland. Admittedly, Perkins does not teach the bleed resistors of the present claim. The bleed resistors of Gilliland are substantially lower values for resistance than those of the present claims. The device of Gilliland is so substantially different that the present device it would likely be fatal if used as claimed herein. And the resistors of Gilliland are used for a diametrically opposed reason than the present claims. For these three reasons, one skilled in the art would never look to the teachings of Gilliland when designing the claimed device. Accordingly, it is believed that the present claims are not obvious over Perkins et al. in view of Gilliland and the present rejection should be withdrawn.

Conclusion

Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied reference. In view of the foregoing, Applicants respectfully request entry of the amendments presented herein, reconsideration of the presently pending Claims 1 – 7, 10 – 12, 18 and 19 as amended, withdrawal of the rejections, and early allowance of this application.

Respectfully submitted,
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Date: July 21, 2009
w/ Attachment
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